

FILED: 10/25/07

U.S. DISTRICT COURT

EASTERN DISTRICT COURT

DAVID J. MALAND, CLERK

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION**

UNITED STATES OF AMERICA

vs.

BYRON HALL

§  
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§

CRIMINAL NO.4:06CR269

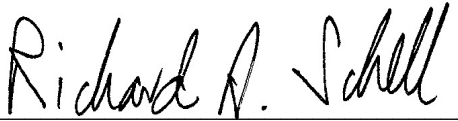
**ORDER GRANTING IN PART DEFENDANT'S MOTION IN LIMINE**

Pending before the court is the Defendant's motion in limine (docket entry #64). Having considered the motion and the Government's response thereto (docket entry #67), it is hereby ORDERED that:

1. The Defendant's request with respect to his prior felony conviction is **DENIED**. Here, the Defendant has been charged in a one count indictment with conspiracy to distribute or dispense cocaine base in violation of 21 U.S.C. § 846. The Government filed its notice of intent to introduce evidence of the Defendant's April 24, 1998 felony conviction for possession of a controlled substance – cocaine – pursuant to FED. R. EVID. 404(b). The Defendant now moves the court to prevent the Government from introducing evidence of his prior felony conviction. Evidence of the Defendant's prior felony conviction is admissible under FED. R. EVID. 404(b) to show the Defendant's knowledge and intent, which was placed at issue by the Defendant's plea of not guilty. *See United States v. Heredia*, 173 Fed.Appx. 337, 338 (5th Cir. 2006), citing *United States v. Beechum*, 582 F.2d 898, 911 (5th Cir. 1978) (remaining citation omitted); *United States v. Smith*, 228 Fed.Appx. 383, 387-88 (5th Cir. 2007); *United States v. Chavez*, 119 F.3d 342, 346-47 (5th Cir. 1997). "The evidence possesse[s] considerable probative value that [is] not substantially outweighed by undue prejudice under FED. R. EVID. 403." *Heredia*, 173 Fed.Appx. at 338. Also, this 404(b) evidence is relevant to, and may be used to show, absence of mistake or accident. Accordingly, the request is denied.
2. The Defendant's request with respect to his prior misdemeanor convictions is **GRANTED**.
3. The Defendant's request with respect to a recorded statement is **GRANTED**.

IT IS SO ORDERED.

**SIGNED** this the 24th day of October, 2007.

  
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RICHARD A. SCHELL  
UNITED STATES DISTRICT JUDGE